
This rule details penalty recommendations. The purpose of the amendment is to add penalties for out-of-competition testing violations.

15.2.6.9 MEDICATIONS AND PROHIBITED SUBSTANCES: The classification guidelines contained within the "Uniform Classification Guidelines for Foreign Substances and Recommended Penalties and Model Rule", December 2023 version 17.0 and "Association of Racing Commissioners International Controlled Therapeutic Medication Schedule for Horses", version 4.2.1, - December, 2020 update are incorporated by reference. Any threshold herein incorporated by reference by inclusion in one of the documents above shall not supersede any threshold or restriction adopted by the commission as specified by this section.

A. Penalties:

(1) In issuing penalties against individuals found guilty of medication and drug violations, a regulatory distinction shall be made between the detection of therapeutic medications used routinely to treat racehorses and those drugs that have no reason to be found at any concentration in the test sample on race day.

(2) The stewards or the commission will use the association of racing commissioner's international recommended penalty as a starting place in the penalty stage of the deliberations for a rule violation for any drug listed in the association of racing commissioners international uniform classification guidelines for foreign substances.

(3) If a licensed veterinarian is administering or prescribing a drug not listed in the association of racing commissioners international uniform classification guidelines for foreign substances, the identity of the drug shall be forwarded to the New Mexico racing commission designee to be forwarded to the racing medication and testing consortium for classification.

(4) Any drug or metabolite thereof found to be present in a pre- or post-race sample which is not classified in the association of racing commissioners international uniform classification guidelines for foreign substances shall be assumed to be an association of racing commissioners international class 1 drug and the trainer and owner shall be subject to those penalties as set forth in penalty category A unless satisfactorily demonstrated otherwise by the racing medication and testing consortium, with a penalty category assigned.

(5) The penalty categories and their related schedules, if applicable, shall be based on the following criteria:

(a) whether the drug is approved by the United States food and drug administration for use in the horse;

(b) whether the drug is approved by the United States food and drug administration for use in any species;

(c) whether the drug as approved has any legitimate therapeutic application in the equine athlete;

(d) whether the drug was identified as "necessary" by the racing medication and testing consortium veterinary advisory committee;

(e) whether legitimate, recognized therapeutic alternatives exist; and

(f) the association of racing commissioner's international classification of the drug.

(6) The recommended penalty for a violation involving a drug that carries a category "D" penalty is a written warning to the trainer and owner. Multiple violations may result in fines or suspensions.

(7) If a positive test arises in a trial race, the horse subject to the positive test is to be placed on the stewards' list. The purse for both the trial and the race for which the trial was conducted will be held until the case has been fully adjudicated.

(8) When the penalty assessed against a licensee for a medication or drug violation in a trial race results in a disqualification and loss of purse, the licensee is subject to the same penalties for any race for which the trial race was conducted.

(9) Any licensee of the commission, including veterinarians, found responsible for the improper or intentional administration of any drug resulting in a positive test may, after proper notice and hearing, be subject to the same penalties set forth for the licensed trainer.

(10) The licensed owner, veterinarian or any other licensed party involved in a positive laboratory finding shall be notified in writing of the hearing and any resulting action. In addition their presence may be required at any and all hearings relative to the case.

(11) Any veterinarian found to be involved in the administration of any drug carrying the penalty category of "A" shall be referred to the state licensing board of veterinary medicine for consideration of further disciplinary action or license revocation. This is in addition to any penalties issued by the stewards or the commission.

(12) Any person who the stewards or the commission believe may have committed acts in violation of criminal statutes may be referred to the appropriate law enforcement agency. Administrative action taken by the stewards or the commission does not prohibit a prosecution for a criminal act, nor does a potential criminal prosecution stall administrative action by the stewards or the commission.

(13) Procedures shall be established to ensure that a licensed trainer is not able to benefit financially during the period for which the individual has been suspended. This includes, but is not limited to, ensuring that horses are not transferred to a licensed person within the first degree of affinity (marriage relationship) or first degree of consanguinity (blood relationship):

(a) first degree of affinity shall mean the licensee's spouse or spouse's mother, father, brother, sister, son or daughter;

(b) first degree of consanguinity shall mean the licensee's mother, father, brother, sister, son or daughter.

(c) No entry in any race shall be accepted for a horse owned wholly or in part by, or trained by, a person whose husband or wife is under license suspension by any racing jurisdiction or regulatory racing organization at time of such entry; except that, if the license of a jockey has been suspended for a routine riding offense, the stewards may waive this rule.

(14) Aggravating and Mitigating Factors:

(a) In reaching a decision on a penalty for a violation for the New Mexico horse racing act or New Mexico racing commission rules and regulations, the commission, the board of stewards, the hearing officer or the administrative law judge shall consider the penalties set forth in paragraph (2) of this subsection and any aggravating and mitigating circumstances. Deviation from these penalties is appropriate where the facts of the particular case warrant such a deviation, for example: there may be mitigating circumstances for which a lesser or no penalty is appropriate, and aggravating factors for which a greater penalty is appropriate.

(b) Mitigating circumstances and aggravating factors, which must be considered, include but are not limited to:

(1) The past record of the licensee regarding violations of the New Mexico horse racing act or New Mexico racing commission rules;

(2) the potential of the drug(s) to influence a horse's racing performance and the amount of the drug present;

(3) the legal availability of the drug and whether the drug was prescribed to the horse by a New Mexico racing commission licensed veterinarian;

(4) whether there is reason to believe the responsible party knew of the administration of the drug or intentionally administered the drug;

(5) the steps taken by the trainer to safeguard the horse;

(6) the steps taken by an owner to safeguard against subsequent medication violations including, but not limited to, the transfer of the horse(s) to an unaffiliated trainer. An "unaffiliated trainer" means a trainer or an assistant trainer who is not related by blood, marriage or domestic partnership, or who is not or was never employed to the trainer from whose case such horse(s) were transferred;

(7) the probability of environmental contamination or inadvertent exposure due to human drug use or other facts;

(8) the purse of the race;

(9) whether the drug found to be present in the official test sample was one for which the horse was receiving treatment as determined and documented by an New Mexico racing commission licensed veterinarian;

(10) whether there was any suspicious wagering pattern on the race; or

(11) whether the licensed trainer was acting under the advice of an New Mexico racing commission veterinarian.

(c) The stewards shall consider the classification of a drug substance and the "uniform classification guidelines for foreign substances" if a determination is made that an official test sample from a horse contained;

(1) Any drug substance, medication, metabolites or analogues thereof foreign to the horse, whose use is not expressly authorized in this section, or

(2) any drug substance, medication or chemical authorized by this section in excess of the authorized level or other restrictions as set forth in this section.

(d) Penalties for violation of each classification level are listed in Subsection B of 15.2.6.9 NMAC.

B. Penalty recommendations:

(1) Category A penalties will be assessed for violations due to the presence of a drug carrying a category A penalty. Recommended penalties for category A violations are as follows:
Licensed trainer:
1st offense:
A minimum one-year suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum three-year suspension. A minimum fine of \$10,000 or ten percent of the total purse (greater of the two) absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of \$25,000 or twenty-five percent of the total purse (greater of the two) and may be referred to the commission for any further action deemed necessary by the commission.
2nd lifetime offense in any jurisdiction:
A minimum three-year suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum of license revocation with no reapplication for a three-year period. A minimum fine of \$25,000 or twenty-five percent of the total purse (greater of the two) absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of \$50,000 or fifty percent of the total purse (greater of the two), and may be referred to the commission for further action deemed necessary by the commission.
3rd lifetime offense in any jurisdiction:
A minimum five-year suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum of license revocation with no reapplication for a five-year period. A minimum fine of \$50,000 or fifty percent of the total purse (greater of the two) absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of \$100,000 or one hundred percent of the total purse (greater of the two), and may be referred to the commission for any further action deemed necessary by the commission.
Licensed owner:
1st offense:
Disqualification and loss of purse. Horse shall be placed on the veterinarian's list for 180 days and must pass a commission-approved examination before becoming eligible to be entered.
2nd lifetime offense in owner's stable in any jurisdiction:
Disqualification and loss of purse. Horse shall be placed on the veterinarian's list for 180 days and must pass a commission-approved examination before becoming eligible to be entered.
3rd lifetime offense in owner's stable in any jurisdiction:
Disqualification, loss of purse, \$50,000 fine. Horse shall be placed on the veterinarian's list for 180 days and must pass a commission-approved examination before becoming eligible to be entered and referral to the commission with a recommendation of a suspension for a minimum of 90 days.

(2) Category B penalties will be assessed for violations due to the presence of a drug carrying a category B penalty and for the presence of more than one NSAID in a plasma or serum sample in accordance with Paragraph (5) of Subsection N of 15.2.6.9 NMAC. Recommended penalties for category B violations are as follows:
Licensed trainer:
1st offense:
A minimum 15-day suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum 60-day suspension. A minimum fine of \$500 absent mitigating circumstances or the presence of aggravating factors could be used to impose a \$1,000 fine.
2nd offense (365-day period) in any jurisdiction:

A minimum 30-day suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum 180-day suspension. A minimum fine of \$1,000 absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of \$2,500.
3rd offense (365-day period) in any jurisdiction:
A minimum 60-day suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum of a one year suspension. A minimum fine of \$2,500 absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum \$5,000 fine or five percent of the total purse (greater of the two) and may be referred to the commission for any further action deemed necessary by the commission.
Licensed owner:
1st offense:
Disqualification, loss of purse (in the absence of mitigating circumstances)* and horse must pass a commission-approved examination before becoming eligible to be entered.
2nd offense (365-day period) in owner's stable in any jurisdiction:
Disqualification, loss of purse (in the absence of mitigating circumstances)* and horse must pass a commission-approved examination before becoming eligible to be entered.
3rd offense (365-day period) in owner's stable in any jurisdiction:
Disqualification, loss of purse, and in the absence of mitigating circumstances a \$5,000 fine* and horse must be placed on the veterinarian's list for 45 days and must pass a commission-approved examination before becoming eligible to be entered.

(3) Category C penalties will be assessed for violations due to the presence of a drug carrying a category C penalty.
(a) phenylbutazone > 0.3 mcg/ml or
(b) flunixin > 5.0 ng/ml or
(c) ketoprofen > 2.0 ng/ml or
(d) penalty class C drugs.
Recommended penalties for category C violations are as follows:
Licensed trainer:
1st offense (365-day period) in any jurisdiction, the penalty is a minimum fine of \$1,000 absent mitigating circumstances.
2nd offense (365-day period) in any jurisdiction, the penalty is a minimum fine of \$1,500 and 15 day suspension absent mitigating circumstances.
3rd offense (365-day period) in any jurisdiction, the penalty is a minimum fine of \$2,500 and a 30 day suspension absent mitigating circumstances.
Licensed owner:
1st offense (365-day period) in any jurisdiction, the penalty is disqualification, loss of purse in the absence of mitigating circumstances and the horse must pass a commission-approved examination before being eligible to run.
2nd offense (365-day period) in any jurisdiction, the penalty is disqualification, and loss of purse in the absence of mitigating circumstances. If same horse, that horse shall be placed on veterinarian's list for 45 days and must pass a commission-approved examination before being eligible to run.
3rd offense (365-day period) in any jurisdiction, the penalty is disqualification, loss of purse, and in the absence of mitigating circumstances a \$5,000 fine and if same horse that horse shall be placed on veterinarian's list for 60 days and must pass a commission-approved examination before being eligible to run.

(4) Category C penalties will be assessed for violations due to the presence of:
(a) furosemide >100 ng/ml; or
(b) no detectable furosemide concentration when identified as administered.
Recommended penalties for category C violations are as follows:
Licensed trainer:
1st offense (365-day period) in any jurisdiction, the penalty is a minimum of a written warning to maximum fine of \$500.

2nd offense (365-day period) in any jurisdiction, the penalty is a minimum of a written warning to maximum fine of \$750.
3rd offense (365-day period) in any jurisdiction, the penalty is a minimum fine of \$500 to a maximum fine of \$1,000.
Licensed owner:
1st offense (365-day period) in any jurisdiction, the horse may be required to pass a commission-approved examination before being eligible to run.
2nd offense (365-day period) in any jurisdiction, the horse may be required to pass a commission-approved examination before being eligible to run.
3rd offense (365-day period) in any jurisdiction, the penalty is disqualification, loss of purse, and the horse must pass a commission-approved examination before being eligible to run.

(5) Out-Of-Competition penalties will be assessed for violations in any official sample other than blood and urine due to the presence of:
(a) penalty class A drugs as listed above and with the association of racing commissioners international “uniform classification guidelines for foreign substances and recommended penalties and model rules” and incorporated by referenced under 15.2.6.9 NMAC.
(b) blood doping agents including, but not limited to, erythropoietin (EP), darbepoetin, oxylglobin, hemopure, aranasep or any substance that abnormally enhances the oxygenation of body tissues;
(c) gene doping agents or the non-therapeutic use of genes, genetic elements, or cells that have the capacity to enhance athletic performance or produce analgesia;
(d) clenbuterol or albuterol present in any official sample in a horse not previously placed on the veterinarian’s list pursuant to paragraph (1) of subsection (C) of 15.2.6.9 NMAC; and
(e) androgenic-anabolic steroids present in any official sample in a horse not previously placed on the veterinarian’s list pursuant to paragraph (10) of subsection (C) of 15.2.6.9 NMAC.
Licensed trainer:
1st offense (365-day period) in any jurisdiction, the penalty is a minimum 30-day suspension.
2nd offense (365-day period) in any jurisdiction, the penalty is a minimum 60-day suspension.
3rd offense (365-day period) in any jurisdiction, the penalty is a minimum 180-day suspension.

~~(5)~~(6) Any violation subsequent to a third violation will carry the same terms as imposed for a third violation. Penalties will run consecutively for a trainer or owner.

~~(6)~~(7) If the trainer has not had more than one violation involving a drug that carries a category C penalty within the previous two years, the stewards are encouraged to issue a warning in lieu of a fine provided the reported level in phenylbutazone is below 3.0 micrograms per milliliter absent of aggravating factors.

~~(7)~~(8) After a two-year period, if a licensee has had no further violations involving a drug that carries a category C penalty, any penalty due to an overage in the 2.0-5.0 micrograms per milliliter range for phenylbutazone will be expunged from the licensee’s record for penalty purposes.

C. Medication restrictions:

(1) A finding by the commission approved laboratory of a prohibited substance in an official post-race or out-of-competition sample of a horse is prima facie evidence that the prohibited substance was administered to the horse and, in the case of a post-race test, was present in the horse's body while it was participating in a race.

(2) Subject to the approval of the commission nothing in this part shall prevent a racing association from setting eligibility conditions for individual races, or for its entire race meet, that prohibit the use or the presence of drug substances or medications in biological test samples collected from participating horses or detection levels lower than what is authorized by the commission. Such conditions if established in accordance with Paragraph (4) of Subsection C of 15.2.3.8 NMAC shall not be deemed in conflict with the rules and regulations of the commission.

(3) Except as otherwise provided by this part, a person may not administer or cause to be administered by any means to a horse a prohibited substance, including any restricted medication pursuant to this part during the 24-hour period before post time for the race in which the horse is entered.

(4) There is no permissible concentration of clenbuterol or albuterol that is allowed to appear in any official sample. This includes samples collected from Quarter Horses and Thoroughbreds.

- (5) The restrictions set forth in Paragraph (3) above do not apply to the following substances:
- (a) Topical applications, such as antiseptics, ointments, salves, leg rubs and leg paints which may contain antibiotics (excluding procaine, penicillin and chloramphenicol) but which shall not contain ethanol, benzocaine, dimethylsulfoxide, lidocaine, steroids or other medications.
 - (b) Vitamins and electrolytes, provided the vitamins and electrolytes are administered orally and do not contain any medications.
 - (c) Mentholated products designed to be used and administered topically to the nostril areas.
 - (d) Products containing eucalyptus oil and peppermint oil, such as Wind-Aid, provided the products are administered orally and do not contain any medications.
- (6) Commission personnel may at any time confiscate any material or devices used for the administration of any substance identified in Paragraph (5) above and submit it to the official laboratory for testing in order to ensure the contents are accurately identified.
- (7) The use of a nebulizer or any similar device used to administer a drug or other substance by inhalation to a horse is not permitted on the day the horse is scheduled to race.
- (8) Any horse that is the subject of a positive test report from the official laboratory for a drug in one of the following categories shall be placed immediately on the steward's list:
- (a) any drug categorized by the association of racing commissioner's international "uniform classification guidelines for foreign substance and recommended penalties and model rule" incorporated by reference under 15.2.6.9 NMAC as a penalty class A substance;
 - (b) any prohibited anabolic androgenic steroid or any anabolic androgenic steroid in excess of the permitted concentrations listed in Subsection G of 15.2.6.9 NMAC;
 - (c) clenbuterol, albuterol, or other beta-agonist drugs with significant anabolic effects that are not currently penalty class A drugs (specifically Quarter Horses or Thoroughbreds);
 - (d) other drugs designed to promote growth or muscle including, but not limited to, growth hormones, somatotropins, insulin growth factors and gene modifying agents;
 - (e) cobalt in excess of the allowable concentration specified pursuant to Subsection L of 15.2.6.9 NMAC.
- (9) Horses placed on the steward's list for a positive test for any of the substances listed in Paragraph (8) of Subsection C above shall remain on the steward's list for 60 days. The first day shall be considered the day following the date of the signed report from the official laboratory.
- (10) In order to be removed from the steward's list and prior to entry, the following conditions shall be met:
- (a) a minimum of 60 days must have elapsed;
 - (b) the horse must be presented to the test barn on or after day 60 for the official veterinarian to obtain blood, urine or hair samples;
 - (c) the collected samples must test negative for any substance identified in Paragraph (8) of Subsection C above;
 - (d) the cost of the testing, including applicable shipping costs, shall be borne by the licensed owner and must be paid in full at the time of shipment.
- (11) If a split sample obtained under Subsection D of 15.2.6.10 NMAC does not confirm the original finding of the official laboratory of a positive test, the horse shall be removed from the steward's list.
- (12) A practicing veterinarian that is licensed by the commission may prescribe a drug identified by Paragraph (8) of Subsection C above under the following conditions:
- (a) the diagnosis justifying the prescribed drug, the dosage, the expected duration of treatment, the name of the horse and the name of the trainer must be submitted to the official veterinarian on a form prescribed by the commission;
 - (b) only FDA label-approved drugs for use in the horse may be prescribed;
 - (c) the horse shall be placed on the veterinarian's list for a period of time not less than 30 days after the last administration of the drug as prescribed;
 - (d) the horse must be presented to the test barn once eligible to be removed from the list for the official veterinarian to obtain blood or urine samples;
 - (e) the collected samples must test negative for the prescribed substance and any other substance identified in Paragraph (8) of Subsection C above;
 - (f) the cost of testing, including applicable shipping costs shall be borne by the licensed owner and must be paid in full at the time of shipment;

(g) horses placed on the veterinarian's list for the therapeutic use of any substance identified in Paragraph (8) of Subsection C above will be exempt from hair sampling for a six-month period following the last day of the reported treatment. Horses will be subject to out of competition blood and urine sampling during the treatment period pursuant to Subsection J of 15.2.6.9 NMAC to ensure that the concentration of drug found is within the range expected for the recognized therapeutic dose of the drug and will be subject to enhanced out of competition blood and urine sampling during the period exempt from hair sampling.

D. Furosemide:

(1) Furosemide may be administered intravenously to a horse, which is entered to compete in a race. Except under the instructions of the official veterinarian for the purpose of removing a horse from the veterinarian's list or to facilitate the collection of a post-race urine sample, furosemide shall be permitted only after the trainer enters the horse on furosemide on the entry card and only after the official veterinarian has placed the horse on the furosemide list. In order for a horse to be placed on the furosemide list, the following process must be followed:

(a) After the horse's licensed trainer and licensed veterinarian determine that it would be in the horse's best interests to race with furosemide the official veterinarian or their designee shall be notified using the prescribed form that the horse is to be put on the furosemide list.

(b) The form must be received by the official veterinarian or their designee by the proper deadlines so as to ensure public notification.

(c) A horse placed on the official furosemide list must remain on that list unless the licensed trainer and licensed veterinarian submit a written request to remove the horse from the list. The request must be made to the official veterinarian or their designee, on the proper form, no later than the time of entry.

(d) After a horse has been removed from the furosemide list, the horse may not be placed back on the list for a period of 60 calendar days unless it is determined to be detrimental to the welfare of the horse, in consultation with the official veterinarian. If a horse is removed from the official furosemide list a second time in a 365-day period, the horse may not be placed back on the list for a period of 90 calendar days.

(e) Furosemide shall only be administered on association grounds.

(f) Furosemide shall be the only authorized bleeder medication.

(2) The use of furosemide shall be permitted under the following circumstances on association grounds where a detention barn is utilized: furosemide shall be administered by the official veterinarian, the racing veterinarian, or practicing veterinarian no less than four hours prior to post in which the horse is entered. A horse qualified for furosemide administration must be brought to the detention barn one hour prior to the four-hour administration requirement specified above. After treatment, the horse shall be required by the commission to remain in the detention barn in the care, custody and control of its trainer or the trainer's designated representative under association or commission security supervision until called to the saddling paddock.

(3) The use of furosemide shall be permitted under the following circumstances on association grounds where a detention barn is not utilized: furosemide shall be administered by the official veterinarian, the racing veterinarian, or practicing veterinarian no less than four hours prior to post in which a horse is entered; the horse must be logged in at the stable gate with time and location no less than one hour prior to administration; the furosemide dosage administered shall not exceed 500 milligrams nor be less than 150 milligrams; the trainer of the treated horse shall cause to be delivered to the official veterinarian or their designee no later than one hour prior to post time for the race for which the horse is entered the following information under oath on a form provided by the commission: the racetrack name, the date and time the furosemide was administered to the entered horse; the dosage amount of furosemide administered to the entered horse; the printed name and signature of the attending licensed veterinarian who administered the furosemide.

(4) Any veterinarian or veterinarian technicians participating in a third-party furosemide administration process under association requirements must be prohibited from working as private veterinarians or technicians on the racetrack or with participating licensees.

(5) The specific gravity of post-race urine samples may be measured to ensure that samples are sufficiently concentrated for proper chemical analysis. The specific gravity shall not be below 1.010. If the specific gravity of the urine is found to be below 1.010 or if a urine sample is unavailable for testing, quantitation of furosemide in serum or plasma shall be performed.

(6) Quantitation of furosemide in serum or plasma shall be performed when specific gravity of the corresponding urine sample is not measured or if measured below 1.010. Concentrations may not exceed 100 nanograms of furosemide per milliliter of serum or plasma.

E. Bleeder list:

(1) The official veterinarian shall maintain a bleeder list of all horses which have demonstrated external evidence of exercise induced pulmonary hemorrhage from one or both nostrils during or after a race or workout as observed by the official or racing veterinarian.

(2) Every confirmed bleeder, regardless of age, shall be placed on the bleeder list and be ineligible to race for the following time periods:

- (a) First incident - 10 days;
- (b) Second incident within 365-day period - 30 days;
- (c) Third incident within 365-day period - 180 days;
- (d) Fourth incident within 365-day period - barred for racing lifetime.

(3) For the purposes of counting the number of days a horse is ineligible to run, the day the horse bled externally is the first day of the recovery period.

(4) The voluntary administration of furosemide without an external bleeding incident shall not subject the horse to the initial period of ineligibility as defined by this policy.

(5) A horse may be removed from the bleeder list only upon the direction of the official veterinarian, who shall certify in writing to the stewards the recommendation for removal.

(6) A horse, which has been placed on a bleeder list in another jurisdiction pursuant to these rules, shall be placed on a bleeder list in this jurisdiction.

F. Permissible medications with acceptable levels: The official urine or blood test sample may contain one of the following drug substances listed below or the drugs listed on “association of racing commissioners international inc. controlled therapeutic medication schedule”, their metabolites or analogs, in any amount that does not exceed the specified levels.

(1) **Atropine:** The use of atropine shall be permitted under the following conditions: any horse to which atropine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of atropine shall not exceed 10 nanograms per milliliter of urine.

(2) **Benzocaine:** The use of benzocaine shall be permitted under the following conditions: any horse to which benzocaine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of benzocaine shall not exceed 50 nanograms per milliliter of urine.

(3) **Dipyron:** The use of dipyron shall be permitted under the following conditions: any horse to which dipyron has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of dipyron shall be administered in such dosage amount that the official test sample shall not exceed 1000 nanograms per milliliter of urine.

(4) **Flumethasone:** The use of flumethasone shall be permitted under the following conditions: any horse to which flumethasone has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of flumethasone shall be administered in such dosage amount that the official test sample shall not exceed 10 nanograms per milliliter of urine.

(5) **Isoxsuprine:** The use of isoxsuprine shall be permitted under the following conditions: any horse to which isoxsuprine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of isoxsuprine shall be administered in such dosage amount that the official test sample shall not exceed 1000 nanograms per milliliter of urine.

(6) **Pentoxifylline:** The use of pentoxifylline shall be permitted under the following conditions: any horse to which pentoxifylline has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of pentoxifylline shall be administered in such dosage amount that the official test sample shall not exceed 50 nanograms per milliliter of urine.

(7) **Pyrilamine:** The use of pyrilamine shall be permitted under the following conditions: any horse to which pyrilamine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of pyrilamine shall be administered in such dosage amount that the official test sample shall not exceed 50 nanograms per milliliter of urine.

G. Androgenic-anabolic steroids (AAS):

(1) No AAS shall be permitted in official samples collected from racing horses except for endogenous concentrations of the naturally occurring substances boldenone, nandrolone, and testosterone at concentrations less than the indicated thresholds.

(2) Concentrations of these AAS shall not exceed the following free (i.e., not conjugated) steroid concentrations in plasma or serum:

(a) Boldenone - a confirmatory threshold not greater than 25 picograms/milliliter for all horses, regardless of sex;

(b) Nandrolone - a confirmatory threshold not greater than 25 picograms/milliliter for fillies, mares and geldings; male horses other than geldings shall be tested for nandrolone in urine (see Subparagraph (b) of Paragraph (3) of this subsection below);

(c) Testosterone - a confirmatory threshold not greater than 100 picograms/milliliter for fillies, mare and geldings.

(3) Total concentrations of these AAS shall not exceed the following total concentrations in urine after hydrolysis of conjugates;

(a) Boldenone - a confirmatory threshold not greater than one nanogram/milliliter for fillies, mares and geldings; a confirmatory threshold not greater than 15 nanograms/milliliter in male horses other than geldings;

(b) Nandrolone - a confirmatory threshold not greater than one nanogram/milliliter for fillies, mares, and geldings; a confirmatory threshold not greater than 45 nanograms/milliliter (as 5 α -estrane-3 β , 17 α -diol) of urine in males horses other than geldings;

(c) Testosterone - a confirmatory threshold of not greater than 55 nanograms/milliliter of urine in fillies and mares (unless in foal); a confirmatory threshold of not less than 20 nanograms/milliliter in geldings.

(4) Any other AAS are prohibited in racing horses.

(5) The presence of more than one of the three AAS identified in Paragraph (2) and (3) of this subsection at concentrations greater than the individual thresholds indicated above shall not be permitted.

(6) The sex of the horse must be identified to the laboratory on all pre-race and post-race samples designated for androgenic-anabolic steroids testing.

(7) If an AAS has been administered to a horse in order to assist in its recovery from illness or injury, that horse may be placed on the veterinarian's list in order to monitor the concentration of the drug or metabolite in urine or blood. After the concentration has fallen below the designated threshold for the administrated AAS, the horse is eligible to be removed from the list.

H. Medical labeling:

(1) No person on association grounds where horses are lodged or kept, excluding veterinarians licensed by the commission, shall have in or upon association grounds which that person occupies or has the right to occupy, or in that person's personal property or effect or vehicle in that person's care, custody or control, a drug, medication, chemical, foreign substance or other substance that is prohibited in a horse on a race day unless the product is labeled in accordance with this subsection.

(2) Any drug or medication which is used or kept on association grounds and which, by federal or state law, requires a prescription must have been validly prescribed by a duly licensed veterinarian, and in compliance with the applicable state statutes. All such allowable medications must have a prescription label which is securely attached to the medication container and clearly ascribed to show the following:

(a) name, address, and telephone number of the pharmacy or veterinarian;

(b) prescription number when dispensed by a pharmacy if required by law;

(c) date prescription filled;

(d) name of the prescribing veterinarian;

(e) name of the horse for whom the medication is prescribed or dispensed;

(f) name of the trainer or owner of the horse for whom the product was dispensed;

(g) dose, dosage, route of administration, and duration of treatment of the prescribed product (instructions for use);

(h) name, active ingredient, quantity prescribed, expiration date (if applicable), beyond use date (if applicable), and lot number if applicable); and

(i) cautionary statements (if any), and if applicable, withdrawal time.

(3) The use of an expired medication is considered a violation of this rule.

(4) Any medication that has a label that is missing, illegible, tampered with or altered, or in any other way does not comply with this section shall be considered a violation of these rules.

(5) Any licensee that voluntarily surrenders any non-compliant medication shall not be considered to be in violation of the medication rules described in this section. A surrender shall not be deemed voluntary after a licensee has been advised or it is apparent that an investigatory search has commenced.

I. Alkalinizing substances: The use of agents that elevate the horses TCO₂ above those existing naturally in the untreated horse at normal physiological concentrations is prohibited. The following levels also apply to blood gas analysis:

(1) the regulatory threshold for TCO₂ is 37.0 millimoles per liter of plasma/serum plus the measurement uncertainty of the laboratory analyzing the sample.

(2) the decision level to be used for the regulation of TCO₂ is 37.0 millimoles per liter of plasma/serum plus the measurement uncertainty of the laboratory analyzing the sample.

(3) such violation is that of a penalty class B drug.

J. Out of competition testing:

(1) A horse may be subject to out of competition testing without advance notice if the horse is:

(a) on the grounds of a racetrack or training center under the jurisdiction of the commission;

(b) under the care or control of a trainer or owner licensed by the commission; or

(c) any horse whose papers are filed in the racing office; or

(d) has been nominated to a stakes race; or

(e) on the steward's list pursuant to Subsection C of 15.2.6.9 NMAC.

(2) This rule applies to the detection of prohibited substances in out of competition official samples as follows:

(a) penalty class A drugs as listed with the association of racing commissioners international "uniform classification guidelines for foreign substances and recommended penalties and model rule" and incorporated by reference under 15.2.6.9 NMAC;

(b) blood doping agents including, but not limited to, erythropoietin (EP), darbepoetin, oxylglobin, hemopure, aranasep or any substance that abnormally enhances the oxygenation of body tissues;

(c) gene doping agents or the non-therapeutic use of genes, genetic elements, or cells that have the capacity to enhance athletic performance or produce analgesia

(d) clenbuterol or albuterol present in any official sample in a horse not previously placed on the veterinarian's list pursuant to Paragraph (10) of Subsection C of 15.2.6.9 NMAC; and

(e) androgenic-anabolic steroids present in any official sample in a horse not previously placed on the veterinarian's list pursuant to Paragraph (10) of Subsection C of 15.2.6.9 NMAC.

(3) The penalty for a positive test resulting from an out of competition blood or urine sample will be determined by the penalty class of the drug listed in the association of racing commissioners international "uniform classification guidelines for foreign substances and recommended penalties and model rule" and incorporated by reference under 15.2.6.9 NMAC.

(4) A horse with a positive test in an out of competition official sample for any substance identified under Paragraph (6) of Subsection C of 15.2.6.9 NMAC will be placed on the steward's list as per the conditions set forth in that subsection. Horses already on the steward's list for violations of Subsection C of 15.2.6.9 NMAC that have a positive out of competition test in a blood or urine sample for one of the substances identified in the referenced paragraph shall be placed on the steward's list for an additional, consecutive 60-day period.

(5) Horses to be tested may be selected at random, with probable cause or as determined by the commission or an agent of the commission.

(6) The commission veterinarian, or any licensed veterinarian or licensed veterinary technician authorized by the commission, may at any time take an official sample from a horse for this purpose.

(7) Split samples shall be collected in accordance with Subsection B of 15.2.6.10 NMAC and shall be secured and made available for further testing in accordance with Subsection D of 15.2.6.10 NMAC.

(8) All horses selected for testing must be presented to the commission veterinarian, or any licensed veterinarian or licensed veterinary technician authorized by the commission, at the time designated, unless the trainer or owner provides verification of an extenuating circumstance that makes it impossible. Penalties for violations of this subsection include:

(a) any horse not presented for testing upon notification absent extenuating circumstances will be placed immediately on the steward's list for a minimum of 60 days and shall be subject to all the requirements set forth in Paragraph (8) of Subsection C of 15.2.6.9 NMAC; and

(b) the licensed trainer of a horse not presented for testing upon notification and absent extenuating circumstances is a minimum license suspension of one year.

(9) Any licensee who does not comply with the rule or the commission veterinarian for a sample may be subject to disciplinary action.

(10) Cooperation with the commission veterinarian, or any licensed veterinarian or licensed veterinary technician authorized by the commission, includes:

(a) assisting in the immediate location and identification of the horse selected for out of competition testing; and

(b) assisting the veterinarian in properly procuring the samples.

(11) Out of competition samples will be sent to the official laboratory of the commission, or another laboratory as designated by the commission, with reports made in accordance with the provisions of the medication rules and the penalty provisions therefore.

K. Contraband:

(1) No person on association grounds or any premises under the jurisdiction of the New Mexico racing commission where horses are lodged or kept, excluding licensed veterinarians, shall have in that person's care, custody or control, a drug, medication, chemical, foreign substance or other substance that is prohibited in a horse on a race day unless the product is labeled in accordance with Subsection H of 15.2.6.9 NMAC. This restriction includes, but is not limited to, locations on the association grounds where that person occupies, in that person's personal property, effects or vehicle.

(2) The New Mexico racing commission may confiscate any contraband in violation of Subsection H of 15.2.6.9 NMAC and any drug or illegal substance that is found on association premises or any premises under the jurisdiction of the New Mexico racing commission which a licensed trainer occupies or has the right to occupy, or in that trainer's personal property, effects or vehicle in that trainer's care, custody or control.

(3) Upon finding a violation of this subsection, the stewards shall consider the classification level as it is listed in the uniform classification guidelines for foreign substances and recommended penalties as promulgated by Subsection A of 15.2.6.9 NMAC.

(4) If the contraband is required to be tested by the official laboratory, payment of all costs for testing shall be borne by the licensee upon final decision by the stewards that the substance is prohibited pursuant to these rules.

L. Environmental contaminants and substances of human use:

(1) Environmental contaminants are either endogenous to the horse or can arise from plants traditionally grazed or harvested as equine feed or are present in equine feed because of contamination during the cultivation, processing, treatment, storage or transportation phases.

(2) Substances of human use and addiction which may be found in the horse due to its close association with humans.

(3) If the preponderance of evidence presented in the hearing shows that a positive test is the result of environmental contamination, including inadvertent exposure due to human drug use, or dietary intake, or is endogenous to the horse, those factors should be considered in mitigation of any disciplinary action taken against the affected trainer. Disciplinary action shall only be taken if test sample results exceed the regulatory thresholds listed below:

(a) Arsenic - 0.3 micrograms per milliliter total arsenic in urine;

(b) Benzoylcegonine - 150 nanograms per milliliter in urine;

(c) Caffeine - 100 nanograms per milliliter of plasma or serum;

(d) Cathinone - 10 nanograms per milliliter in urine;

(e) Cobalt - 25 ppb in blood plasma or serum (penalties for cobalt vary depending on the concentration; see uniform classification guidelines for foreign substances for recommended penalty for concentrations of 25 parts per billion or greater of blood plasma or serum).

- (f) Estranediol - 0.045 micrograms per milliliter, free + conjugated 5 α -estrane-3 β , 17 α -diol, in the urine of male horses other than geldings;
- (g) Gamma Aminobutyric Acid - 110 nanograms per milliliter of plasma or serum;
- (h) Hydrocortisone - 1 microgram per milliliter of urine;
- (i) Methoxytyramine - 4 micrograms per milliliter, free + conjugated in urine;
- (j) Morphine/morphine glucuronides - 100 nanograms per milliliter in urine;
- (k) Salicylate/Salicylic Acid - 750 micrograms per milliliter of urine or 6.5 micrograms per milliliter of serum or plasma;
- (l) Scopolamine - 75 nanograms per milliliter of urine;
- (m) Strychnine - 100 nanograms per milliliter of urine;
- (n) Theobromine - 2 micrograms per milliliter of urine or 0.3 micrograms per milliliter of serum or plasma; and
- (o) Theophylline - 400 nanograms per milliliter of urine.

M. Suspension of authorized medication:

(1) After a public meeting that has been noticed in accordance with the Open Meetings Act, Sections 10-15-1 through 10-15-4 NMSA 1978, the commission may, for any cause, temporarily suspend the authorized administration to a horse of any drug, substance or medication that is otherwise permitted under the commission rules.

(2) The temporary suspension of the authorized administration of a drug, substance or medication may be for a race, breed, or race meeting, provided all horses in the same race compete under the same conditions.

(3) The commission shall notify in writing the racing association, the trainer's organization, and licensed veterinarians of any temporary suspension of authorization to administer a drug, substance or medication to a horse entered to race. The written notification shall include at minimum:

- (a) the authorized medication is temporarily suspended,
- (b) the period of time for which the use of the authorized medication is temporarily suspended; and

(c) whether the temporary suspension is for a specific breed or a race meeting.

(4) A suspension of authorization to administer a drug, substance or medication to a horse entered to race shall not exceed 12 months.

N. Non-steroidal anti-inflammatory drugs (NSAIDs): The use of NSAIDs shall be governed by the following conditions:

(1) No NSAID may be administered at less than 48 hours to the scheduled post time of the race in which the horse is entered.

(2) Evidence of an NSAID administration at less than 48 hours to the scheduled post time of the race in which the horse is entered constitutes a Class C violation.

(3) NSAIDs included in the "association of racing commissioner's international incorporated controlled therapeutic medication schedule for horses" are not to be used in a manner inconsistent with the restrictions contained herein. NSAIDs not included on the "association of racing commissioner's international incorporated controlled therapeutic medication schedule for horses" are not to be present in a racing horse's official sample above the official laboratory limit of detection.

(4) Notwithstanding the above, the presence of one of the following does not constitute a violation:

(a) Phenylbutazone at a concentration of less than 0.3 micrograms per milliliter of plasma or serum;

(b) Flunixin at a concentration less than 5.0 nanograms per milliliter of plasma or serum; or

(c) Ketoprofen at a concentration less than 2.0 nanograms per milliliter of plasma or serum.

(5) The detection of two or more NSAIDs in blood and/or urine constitutes a NSAID Stacking Violation (Penalty Class B).

O. Multiple Medication Violations (MMV):

(1) A trainer who receives a penalty for a medication violation based upon a horse testing positive for a class 1-5 medication with penalty class A-C, as provided in the version of the ARCI "uniform classification guidelines for foreign substances" listed in 15.2.6.9 NMAC, or similar state regulatory guidelines, shall be assigned points as follows;

Penalty Class	Points If Controlled Therapeutic Substance	Points if Non-Controlled Substance
Class A	6	6
Class B	2	4
Class C	1/2 point for first violation with an additional 1/2 point for each additional violation within 365 days	1 for first violation with an additional 1/2 point for each additional violation with 365 days
Class D	0	0

Points for NSAID violations only apply when the primary threshold of the NSAID is exceeded. Points are not to be separately assigned for a stacking violation. If the stewards or the commission determine that the violation is due to environmental contamination, they may assign lesser or no points against the trainer based upon the specific facts of the case.

(2) The points assigned to a medication violation by the stewards or commission shall be included in the ARCI official database. The ARCI shall record points consistent with Paragraph (1) of this Subsection including when appropriate, a designation that points have been suspended for the medication violation. Points assigned by such commission ruling shall reflect, in the case of multiple positive tests as described in Paragraph (4), whether they constitute a single violation. The stewards or commission ruling shall be posted on the official website of the commission and within the official database of the ARCI. If an appeal is pending, that fact shall be noted in such ruling. No points shall be applied until a final adjudication of the enforcement of any such violation.

(3) A trainer's cumulative points for violations in all racing jurisdictions shall be maintained by the ARCI. Once all appeals are waived or exhausted, the points shall immediately become part of the trainer's official ARCI record and shall be considered by the commission in its determination to subject the trainer to the mandatory enhanced penalties by the stewards or commission as provided in this rule.

(4) Multiple positive tests for the same medication incurred by a trainer prior to delivery of official notice by the commission may be treated as a single violation. In the case of a positive test indicating multiple substances found in a single post-race sample, the stewards may treat each substance found as an individual violation for which points will be assigned, depending upon the facts and circumstances of the case.

(5) The official ARCI record shall be used to advise the stewards or commission of a trainer's past record of violations and cumulative points. Nothing in this administrative regulation shall be construed to confer upon a licensed trainer the right to appeal a violation for which all remedies have been exhausted or for which the appeal time has expired as provided by applicable law.

(6) The stewards or commission shall consider all points for violations in all racing jurisdictions as contained in the trainer's official ARCI record when determining whether the mandatory enhancements provided in this regulation shall be imposed.

(7) In addition to the penalty for the underlying offense, the following enhancements shall be imposed upon a licensed trainer based upon the cumulative points contained in their official ARCI record:

POINTS	SUSPENSION IN DAYS
5 - 5.5	15 to 30
6 - 8.5	30 to 60
9 - 10.5	90 to 180
11 or more	180 to 360

MMV penalties are not a substitute for the current penalty system and are intended to be an additional uniform penalty when the licensee:

- (a) Has more than one medication violation for the relevant time period, and
- (b) exceeds the permissible number of points.

The stewards and commission shall consider aggravating and mitigating circumstances, including the trainer's prior record for medication violations, when determining the appropriate penalty for the underlying offense. The multiple medication penalty is intended to be a separate and additional penalty for a pattern of violations.

(8) The suspension periods as provided in this subsection shall run consecutive to any suspension imposed for the underlying offense.

(9) The stewards or commission ruling shall distinguish between the penalty for the underlying offense and any enhancement based upon a stewards or commission review of the trainer's cumulative points and regulatory record, which may be considered an aggravating factor in a case.

(10) Points shall expire as follows:

Penalty Classification	Time to Expire
A	3 years
B	2 years
C	1 year

In the case of a medication violation that results in a suspension, any points assessed expire on the anniversary date of the date the suspension is completed.

[15.2.6.9 NMAC - Rp, 15 NMAC 2.6.9, 4/13/2001; A, 8/30/2001; A, 7/15/2002; A, 8/15/2002; A, 9/29/2006; A, 10/31/2006; A, 8/30/2007; A, 1/31/2008; A, 3/01/2009; A, 6/15/2009; A, 6/30/2009; A, 9/15/2009; A, 12/15/2009; A, 3/16/2010; A, 7/05/2010; A, 9/1/2010; A, 12/1/2010; A, 11/1/2011; A, 2/15/2012; A, 4/30/2012; A, 7/31/2012; A, 12/14/2012; A, 5/1/2013; A/E, 5/2/2013; A, 9/30/2013; A, 4/1/2014; A, 5/16/2014; A, 8/15/2014; A, 9/15/2014; A, 3/16/2015; A, 9/16/15; A, 3/15/2016; A, 6/15/2016; A/E, 6/28/2016; A, 9/15/2016; A, 12/16/2016; A, 7/1/2017; A, 10/31/17; A, 3/14/2018; A, 9/26/2018; A, 5/1/2019; A, 12/19/2019; A, 4/20/2021; A, 12/28/2021; A, 4/9/2024; A, 8/13/2024]